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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/086,857	05/29/1998	DAVID T. FREDERICK	D-1093	8855
28995	7590	01/26/2005	EXAMINER	
RALPH E. JOCKE 231 SOUTH BROADWAY MEDINA, OH 44256			BUTLER, MICHAEL E .	
			ART UNIT	PAPER NUMBER
			3653	

DATE MAILED: 01/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Reply Brief Noted

The reply brief filed 11/05/04 has been entered.

The identification of the determinative issues for the Board's consideration as identified in the examiner's answer is a better identifier than the applicant's mere reiteration of the status of each claim with respect to each reference or reference pair.

As stated on pages 29-32 of the Examiner's Answer, the later invented matter of dependent claim such as claim 47 does not inherit the invention date attested to in the affidavit merely because its dependency was strapped to the affidavit addressed claim 45.

The Office concurs with the applicant's assessment that the headers on pages 34 and 33 were inverted, page 34 should have said Rejections under 35 USC 103, page 33 should have read Rejections under 35 USC 102.


It is noted that the specification omits a priority claim in contrast to the transmittal letter and filing receipt each of which claims priority to earlier applications. The examiner has presumed the transmittal letter and corrected filing receipt priority claims trump the lack of a priority claim in the specification. However, the determination of which priority status from amongst applicant's conflicting documents has priority has been deferred to the Board.

The remaining arguments were previously addressed and are still deemed unpersuasive.

The application is being forwarded to the Board of Patent Appeals and Interferences for decision on the appeal.

Michael E. Butler

Michael E. Butler
Patent Examiner


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